
ANNEX B

In this Annex, underlining indicates new text and striking through indicates deleted text.



The DFSA Rulebook

Collective Investment Rules

(CIR)

6 OPERATION OF THE FUND

6.4 Conflicts of interest

- 6.4.1**
- (1) The Operator and, if it is a Fund structured as an Investment Trust, the Trustee, must take reasonable steps to ensure that in any dealing in relation to the Fund Property such dealings do not give rise to a conflict of interest.
 - (2) Where a conflict of Interest arises, whether in dealings with Affected Persons or otherwise, the Operator and, if appointed, the Trustee must disclose to the Unitholders the nature of the conflict and how the conflict will be managed.
 - (3) An Operator must ensure that any transaction in respect of the Fund Property undertaken with an Affected Person is on terms at least as favourable to the Fund as any comparable arrangement on normal commercial terms negotiated at arm's length with an independent third party and in any event in accordance with this Rule.
 - (4) The Operator must obtain Unitholders' prior approval by Special Resolution in respect of Affected Person transactions where the total consideration or value of the transaction is 5% or more of the latest net asset value of the Fund, as disclosed in the latest published audited accounts of the Fund.
 - (5) Announcements must be made by the Operator for all Affected Person transactions. Details of the transactions must be disclosed by the Operator by way of a circular to Unitholders.
 - (6) Where Unitholder approval is required, a notice must be issued to Unitholders providing details of the result of the Unitholders' voting at the general meeting. Subsequently, a brief summary of the transactions shall be included in the Fund's next published interim or annual report.
 - (7) Where Affected Person transactions are carried out in relation to the Fund Property, a summary disclosure of the total value of such transactions, their nature and the identities of the Affected Persons must be made in the annual report of the Fund. Where there is no such transaction conducted during the financial year covered by the annual report, an appropriate negative statement to that effect must be made in the annual report.
 - (8) Without limiting the generality of the obligations of the Operator including those in (1) – (7), the Operator must have policies and procedures in place which are designed to ensure that:
 - (a) when executing or procuring execution of trades for or on behalf of the Fund, the transactions are executed:
-

-
- (i) as soon as reasonably practicable after a decision to effect a transaction has been made; and
 - (ii) on the best terms available at the time of dealing;
 - (b) where the Operator undertakes investment transactions for or on behalf of a Fund which it operates and one or more other Funds or Clients, there is timely and fair allocation of trades to each Fund and Client;
 - (c) trading of the investment portfolio forming part of the Fund Property is not excessive in light of the Fund's investment objective as stated in its Constitution and the most recently issued Prospectus; and
 - (d) any underwriting arrangements it undertakes are carried out in the best interest of the Fund.

Guidance

1. For the purposes of (8)(a), an Operator's procedures should take into account matters such as the market in which the trade is to be executed, the kind and size of the transaction concerned and type of services provided by the executing broker that has been selected. An Operator's procedures should be adequate to demonstrate that when the transaction was executed, it was done at the best price available. For this purpose, an Operator may require a print out of a computer screen containing information about the price available at the time of the execution to be maintained.
 2. For the purposes of (8)(b), an Operator should have a policy in place which demonstrates how it achieves timely and fair allocation of trades. For example, where an Operator places an order on behalf of a number of Funds it operates, its policy should state the basis of allocation of trades to each Fund and, where any deviation from that policy occurs, record the reasons for such deviations.
 3. For the purposes of (8)(c), an Operator's policies and procedures should encompass requirements such as maintenance of sufficient records to demonstrate that any brokerage, commissions or other benefits directly or indirectly derived from any transactions it has undertaken on behalf of the Fund are not unusual, when considered in light of industry practice. However, where there are other requirements relating to disclosure of benefits, an Operator should comply with those requirements separately, as maintenance of records for the purposes of this Rule may not be sufficient to discharge those obligations.
 4. For the purposes of (8)(d), where an Operator seeks to underwrite or participate in an Initial Public Offering, its policies should ensure that it does not do so in a manner that is in any way detrimental to the Fund. The Operator will also need to ensure that the best execution obligations under (8)(a) are met.
-

6.5 Valuation of fund

- 6.5.1** (1) An Operator must:
- (a) ensure that the Fund Property is valued at regular intervals appropriate to the nature of the Fund, except where such valuation is suspended in any circumstances that are set out in the Fund's Constitution or Prospectus;
 - (b) prepare a valuation in accordance with ~~(4)~~ (3) for each relevant type of Unit at each relevant valuation point; and
 - (c) if the Fund is a Public Fund, as soon as practicable after each valuation point, both publish and make available to the Unitholders and prospective Unitholders of the Fund, the price of the Units of the Fund.
- (2) The value of the Fund Property is the net value of the Fund Property after deducting any expenses and outstanding borrowings including any capital outstanding on a mortgage of any Real Property.
- (3) The value of the Fund Property must, save as otherwise provided in this section, be determined in accordance with the provisions of the Constitution and the Prospectus, as appropriate.
- (4) For the purposes of (2), any charges that were paid, or would be payable, on acquiring or disposing of the asset must be excluded from the value of that asset.
-

15.4 Contents of a Prospectus

15.4.1 Table: mandatory contents of a Fund's Prospectus.

14	Valuation of the Fund Property
	<p>Details as to:</p> <ul style="list-style-type: none">(a) how frequently and at what times of the day the Fund Property will be regularly valued to determine the price at which Units in the Fund may be purchased from or redeemed by the Operator and a description of any circumstance where the Fund Property may be specially valued;(b) in relation to each purpose for which the Fund Property must be valued, the basis on which it will be valued;(c) how the single price of Units of each class will be determined, including whether a forward or historic price basis is to be applied; and(d) details as to how the prices of Units will be published following each valuation; <u>and</u>(e) <u>if valuation is to be suspended under certain circumstances, details of such circumstances.</u>

17.9 Criteria for appointment of individuals

- 17.9.1** (1) An Operator must ensure that any individual it appoints to oversee the operation of the Fund is, ~~suitably qualified and, in accordance with this chapter, fit and proper~~ and continues to be:
- (a) suitably qualified;
 - (b) fit and proper; and
 - (c) independent,
- in accordance with this chapter.
- (2) In the case where a Fund has oversight arrangements referred to in Rule 17.3.4(1)(d), the Operator must ensure that each independent Director meets the criteria for individuals performing oversight functions.
- (3) If requested by the DFSA, an Operator must provide the DFSA with information on any Person it has appointed or intends to appoint to oversee the Fund.

Guidance

The guidance under Appendix 5 sets out matters which an Operator should take into account when assessing the fitness and propriety of an individual who is to be appointed to carry out oversight functions.

APP 2 APPROVALS AND NOTIFICATIONS

A 2.1 Fundamental change requiring prior approval by Unitholder meeting

- A 2.1.1**
- (1) An Operator must, by way of a Special Resolution, obtain prior approval from the Unitholders for any proposed change to a Domestic Fund which is a fundamental change.
 - (2) In addition to the specific fundamental changes in relation to a Fund prescribed under Article 58(1) of the Law and also under Rules 6.4.1(4), 10.2.3, 13.5.4(2) and 20.5.2, A—a “fundamental change” under (1) is a change or event which:
 - (a) changes the purpose or nature of the Fund;
 - (b) may materially prejudice a Unitholder;
 - (c) alters the risk profile of the Fund; or
 - (d) introduces any new type of payment out of Fund Property.
 - (3) Notwithstanding (2) above, any change may be fundamental depending on its degree of materiality and effect on the Fund and its Unitholders. Consequently the Operator must determine whether in each case a particular change is fundamental in nature ~~or not~~ and, if the Fund is an Investment Trust, obtain the Trustee’s agreement ~~of~~ to the outcome ~~to~~ of the determination.

APP 3 GUIDANCE ON ASSET VALUATION AND PRICING

Guidance

General

6. In respect of Securities quoted on an Exchange:
 - (a) the Fund’s Constitution should set out the valuation policy that will be adopted by the Operator where a single price for buying and selling a Security is quoted; and also where separate buying and selling prices are quoted on an Exchange. Either the official mid-market price or the last trade price should provide an appropriate basis of valuation for the Fund. The Operator should, however, document the choice of methodology and ensure that the procedures are applied consistently and fairly; and
-

- (b) where there has been no recent trade in the Security concerned, or no reliable price exists, an Investment should be valued at a price which, ~~in the opinion of the Operator,~~ reflects a fair and reasonable price for that investment. For example, an Operator may obtain a valuation from three experienced brokers and average the value. In such cases, the Operator ~~should~~ is required to document the reasons for his decision and should be prepared to justify any assumptions made.
-